

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

THE UNITED STATES OF AMERICA,)
Complainant,)
vs.) Case No.: CR-08-310 (FAB)
4 WILFREDO ROSARIO-CAMACHO,)
Defendant.)

TRANSCRIPT OF PROCEEDINGS
SENTENCING HEARING
HELD BEFORE JUDGE FRANCISCO A. BESOSA
ON AUGUST 18, 2010

A P P E A R A N C E S

For the United States:

MARQUEST MEEKS
Assistant U.S. District Attorney
Torre Chardon, Suite 1201
350 Carlos Chardon Street
Hato Rey, Puerto Rico 00918

For the Defendant:

FRANCISCO DOLZ-SANCHEZ
P.O. Box 361451
San Juan, Puerto Rico 00936

ROLAYNE M. VOLPE, CCR, RPR
Court Reporter for the U.S. District Court of Puerto Rico
Federal Building, Room 150
San Juan, Puerto Rico 00918
(787) 772-3482

I N D E X**DESCRIPTION****PAGE**

PROCEEDINGS

3

REPORTER'S CERTIFICATE

29

E X H I B I T S**DESCRIPTION****PAGE**

(No exhibits marked during this session.)

1 The above-styled cause came on for hearing on the
2 18th day of August, 2010, at 11:34 a.m., before Judge Francisco
3 A. Besosa, Judge in the United States District Court for the
4 District of Puerto Rico, when the following proceedings were
5 had and entered of record, to wit:

6 **PROCEEDINGS**

7 **SENTENCING HEARING**

8 THE COURT: Please be seated.

9 THE COURTROOM DEPUTY CLERK: Criminal 08-310,
10 United States of America versus Wilfredo Rosario-Camacho for
11 sentence. On behalf of the Government, Assistant U.S.
12 Attorney Marquest Meeks; on behalf of the Defendant, Francisco
13 Dolz-Sanchez. Defendant is present and assisted by the Court
14 Interpreter.

15 MR. MEEKS: Good morning, your Honor. Assistant
16 United States Attorney Marquest Meeks on behalf of the United
17 States. The Government is prepared to proceed.

18 MR. DOLZ-SANCHEZ: Good morning, your Honor.
19 Francisco Dolz-Sanchez for the Defendant, Wilfredo
20 Rosario-Camacho. I'm court-appointed CJA counsel.

21 THE COURT: All right. Mr. Dolz, would you like to
22 say something on behalf of your client before I pronounce
23 sentence?

24 MR. DOLZ-SANCHEZ: Your Honor, before we get into
25 that I just want to make sure that there's a -- There's two

1 objections that I filed in writing, and there's one that I
2 missed. We objected to the -- to the drug calculation, of
3 course, and for the reasons stated therein, and then we also
4 objected to the leadership in the offense because --

5 THE COURT: I'm sorry? To the what?

6 MR. DOLZ-SANCHEZ: To the four level increase for --

7 THE COURT: Leadership role.

8 MR. DOLZ-SANCHEZ: -- the adjustment for role in the
9 offense because it's our estimation, your Honor, throughout the
10 testimony there was ample evidence that Manny, meaning Luis
11 Sostre-Miranda, was always -- was always the leader and the
12 owner of these points. And there's also ample testimony that
13 this Defendant was leasing from him, so at -- all throughout,
14 in my estimation, the one that was making the decisions and
15 acting as a true drug point leader was Manny; Luis
16 Sostre-Miranda. Which brings us briefly -- very briefly -- to
17 the argument that was listed this morning, that in terms of the
18 sentence that Luis Sostre received of, I think, 180 months
19 compared to whatever sentence this Defendant will receive, in
20 our estimation, Luis Sostre never ceased to be the owner -- or
21 the real owner of this group, your Honor. In that sense, we
22 want to make sure that those objections are noted.

23 And then there's one that I missed on Page 20 of the
24 Presentence Investigation Report, Paragraph 19. There's a
25 paraphrase from the Indictment that states: He also -- meaning

1 the Defendant -- received an incentive, monthly payment, for
2 the cocaine sold at the drug points from Co-Defendant Ramon
3 Maysonet-Soler. That's charged -- That's wording of the
4 Indictment. There was never evidence -- no evidence presented
5 throughout the trial that that was so. In that sense, your
6 Honor, we move to strike that -- that sentence, because there
7 was no evidence as to that effect.

8 Your Honor, the Defendant will address the Court, and
9 then I will ask -- I will beg the Court to give me one last --
10 a few minutes for mitigation purposes.

11 THE COURT: All right. But before I ask Mr. Rosario
12 to address the Court, I would like to hear from Mr. Meeks.

13 MR. MEEKS: Yes, your Honor. For the most part, the
14 United States relies on its Sentencing Memorandum, which was
15 filed last night, to address specifically the concern about the
16 drug quantity calculation. There's a quantity calculation in
17 the United States Sentencing Memorandum that is being
18 recommended to the Court by the U.S. Attorney's Office.
19 Similar to the last Defendant that was sentenced this morning,
20 the United States' recommendation is an extremely conservative
21 recommendation in light of the fact it comes down two levels
22 from what could be held attributable to this particular
23 Defendant. With regard to the plus-four points for leadership
24 role, which has been recommended by the probation office and
25 is also being recommended by the United States, it is not

1 simply the fact that either in the Indictment, by other
2 co-conspirators, by the Court, or by anyone else the Defendant
3 is entitled as a leader or given any such title that suggests
4 that. The plus-four for leadership role comes from
5 Section 3B1.1(a), where it says: If the defendant was an
6 organizer or leader of a criminal activity that involved five
7 or more participants, or was otherwise extensive, increase by
8 four levels.

9 And where similar to other Defendants who received
10 this plus-four enhancement, this Defendant had sellers who
11 would work for him and runners who would also work for him and
12 of course this criminal enterprise involves at least 74
13 individuals who were indicted. And although Mr. Dolz has
14 proffered to the Court that the true and accurate owner of the
15 crack cocaine drug points for the time frame that's recommended
16 in the United States Sentencing Memorandum was actually a
17 different Defendant, the testimony at trial was contrary to
18 that, and so the United States would request that the Court
19 rely on the trial testimony as highlighted and cited to in the
20 Sentencing Memorandum.

21 MR. DOLZ-SANCHEZ: Your Honor, I just want to mention
22 that the memo was filed last night after midnight and we were
23 able to open it this morning, so we not have had time. But I
24 believe that my objection to the calculation go to specific
25 issues, and I -- I think that the calculations are addressed

1 properly in my objection to the Presentence Report, your Honor.

2 (Respite.)

3 THE COURT: Now, Mr. Rosario, would you like to
4 address the Court?

5 THE DEFENDANT: Yes.

6 THE COURT: Please.

7 THE DEFENDANT: Before I get into the sentence,
8 there's a motion that I filed that has not been replied to as
9 of yet. I received the one about not changing the date of the
10 sentence. As to the motion about the transcript of the DEA
11 agent before the Grand Jury, I still not have received a reply
12 from the Court.

13 THE COURT: That motion was denied.

14 THE DEFENDANT: Okay. Well, by way of
15 reconsideration, can I ask your Honor to please tell the AUSA
16 that -- You see, on another occasion when there was a -- a
17 search conducted by the DEA, the Court ordered that the
18 affidavit be turned in and that it remain sealed in the file.
19 I asked by way of reconsideration if I can ask that transcript
20 of the DEA because if it's not in the file. I can't make -- I
21 can't appeal and make reference to that at all because it's not
22 there.

23 THE COURT: Well, that -- that request by you would be
24 considered at the time of your appeal if you file an appeal.

25 THE DEFENDANT: Honorable Judge, and very

1 respectfully, when you are going to appeal, that takes a long
2 time.

3 THE COURT: Well, you know, if you file a Notice of
4 Appeal, whoever represents you in the appeal will have plenty
5 of time to take a look at the entire record, including Grand
6 Jury transcripts, for purposes of filing his brief on appeal.
7 So there -- the -- and you can -- you can imagine, that the
8 transcript of this case is 44 days long, and it will take a
9 while for the -- your attorney, whoever that is who will handle
10 your appeal, to go through that appeal to be able to -- to go
11 through all that transcript to be able to -- to file his brief
12 on appeal.

13 Now, I don't know what the situation is as to the
14 Grand Jury transcripts, but it may be something that you're
15 entitled to, it may be something that you're not entitled to, I
16 don't know.

17 Mr. Meeks.

18 MR. MEEKS: I just wanted to clarify something briefly
19 for the record because the Defendant mentioned an affidavit
20 that I think he was referring to that the Court ordered that
21 the Government turn over during trial and it was sealed as part
22 of the record. Just so it's clear for the record and for the
23 Defendant, and maybe this will address the concern --

24 THE COURT: Well, it's sealed, but the parties have
25 access to it.

1 MR. MEEKS: Right. That is part of the record, so if
2 an appeal is filed, that's there.

3 THE COURT: That will part of the record.

4 MR. DOLZ-SANCHEZ: Let me clarify. I think the
5 Defendant wants to have the transcript of Agent Slesar; and
6 since he did not testify, the transcript is in the possession
7 of the Government. I think that's -- what he wants is that it
8 be made part of the record and remain sealed. I think that is
9 what he wants. But I told him that I will take care of that
10 after the sentencing.

11 THE COURT: Okay. All right.

12 All right. Anything else, Mr. Rosario?

13 THE DEFENDANT: Well, in the Indictment, it was
14 introduced -- the Indictment that was introduced, it was
15 mentioned that I was a police officer.

16 THE COURT: But that did not come out during the
17 trial, if you will recall. So I -- if I recall your motion,
18 you're saying that the fact that the Government's -- the
19 testimony presented during the Grand Jury -- before the Grand
20 Jury indicated that you were a police officer, perhaps was
21 something that the Grand Jurors considered in order to -- to
22 issue the Indictment.

23 That -- I don't know whether -- whether that's true or
24 not. But that's -- that may be something that you may want to
25 bring up on appeal, but not at sentencing.

1 THE DEFENDANT: Okay.

2 THE COURT: But if you recall, when -- when the jury
3 received the Indictment, when they went to deliberate, at the
4 request of your counsel, the fact that it appeared in the
5 Indictment that you were a former police officer, was redacted
6 from the Indictment. Was eliminated from the Indictment. So
7 the jury never knew that you were a former police officer.

8 MR. DOLZ-SANCHEZ: It was a fact, your Honor, that we
9 asked from the Government, and the Court allowed us to talk
10 with the Government, and the Government's witnesses were
11 instructed not to mention that fact.

12 THE COURT: That's correct.

13 MR. DOLZ-SANCHEZ: Just to have the record clear.

14 THE COURT: Nothing came out at the trial that -- that
15 you were a former police officer. That may have come out in
16 the Grand Jury, I don't know. I haven't read the transcripts,
17 but if it did and if it's an issue that you want to raise on
18 appeal, you may.

19 THE DEFENDANT: Okay.

20 THE COURT: Okay. Anything else, Mr. Rosario?

21 THE DEFENDANT: Well, yes, in relation to the
22 sentence. Okay. In relation to Ms. Katherine Valentin's
23 report, I do not agree with several of the things that she
24 alleged in the report, and I find that they are erroneous
25 because nothing was ever testified about that.

1 Okay. On Page 20, it was mentioned --

2 And I think counsel already talked about this.

3 -- that Ms. Katherine Valentin is attributing to
4 me a certain amount of cocaine since the Indictment read that
5 Defendant Wilfredo Rosario received a monthly amount of money
6 from the cocaine that he received from Maysonet. You see,
7 during the trial, there was no witness -- there was no
8 testimony about this -- I don't know where this information
9 came from. And in terms of any drugs that they want to tie
10 me -- associate with me in terms of what was sold at the drug
11 point, there is no evidence about that according to what the
12 witnesses testified in this case said.

13 THE COURT: Well, let me -- let me stop you right
14 there.

15 Mr. Meeks, do you recall any testimony at the trial
16 that said that Mr. Rosario received an incentive or monthly
17 payment for the cocaine sold at the drug points from
18 Co-Defendant Ramon Maysonet-Soler?

19 MR. MEEKS: I do not recall it off the top of my head,
20 your Honor, but it doesn't mean that it's not there.

21 THE COURT: Go ahead, Mr. Rosario.

22 THE DEFENDANT: I just observed AUSA Castellon shaking
23 her head as if saying "yes." If -- if she could step up and
24 testify about that.

25 THE COURT: Mr. Meeks is the -- is the AUSA in charge

1 of the case now.

2 MR. MEEKS: Your Honor, I know that the Defendant has
3 a right to an allocution, but that right is not unlimited. I
4 would just respectfully request that the Court kind of guide
5 the Defendant that we focus on the sentencing. Many of the
6 issues he's bringing --

7 THE COURT: Well, part of the sentencing is -- is
8 -- is to be able to object to the Presentence Report.

9 MR. MEEKS: Yes, your Honor. And with regard to that,
10 I'd ask that -- maybe Mr. Dolz can help us out. If Mr. Dolz
11 has already made the same objections in writing or orally
12 concerning the Presentence Report, I don't know that it's
13 efficient to have the Defendant repeat the same.

14 THE COURT: That may be true. And Mr. Dolz did
15 mention it orally here in court, and -- I don't recall if he
16 mentioned it in his writing, but he did mention it orally here
17 in court.

18 Mr. Rosario, is there anything else that you would
19 like to draw the Court's attention in the Presentence Report
20 that Mr. Dolz has not already done so?

21 THE DEFENDANT: Yes.

22 THE COURT: Go ahead.

23 THE DEFENDANT: Okay. Well, in relation to the amount
24 of crack that is being -- that I am being charged with, this
25 Defendant is being charged with having participated 15 months

1 in this conspiracy. And Ms. Katherine Valentin filed a report
2 concerning the amounts, amounts of drugs, but letting herself
3 be guided by the testimony of Jesus Robles-Santana.

4 THE COURT: Well, she can do that. That's the
5 evidence that came out at trial. Whether or not you personally
6 believe that he told the truth or not, the jury apparently
7 believed what he said.

8 THE DEFENDANT: Apparently. They believed the part
9 about whether or not there was a conspiracy.

10 THE COURT: Well, but Mr. Robles testified extensively
11 about the amounts of drugs, not only involving you but
12 involving other Defendants, so that's -- you know, that's
13 -- that's an issue that Ms. Valentin can take into
14 consideration when preparing the Presentence Report.

15 THE DEFENDANT: But I was not able to discuss that
16 with Ms. Valentin.

17 Right now the amounts in terms of all the drugs,
18 according to the report, is a total of 5,240 bags of drugs.
19 And if you divide that into the 24 hours a day that the drug
20 point is operating, that -- about 218 persons per hour have to
21 go up and down that street.

22 THE COURT: All right. But. . .

23 THE DEFENDANT: Without considering the brands known
24 Guacamayo, Volcan, Saltamonte, Zorro of the evening shift --

25 THE COURT: Yeah, but --

1 THE DEFENDANT: I'm sorry, the morning shift. The
2 a.m. shift.

3 THE COURT: Ms. Valentin, I believe, mentioned
4 generally what happened, but --

5 THE DEFENDANT: I'll give you an example as to the
6 amounts.

7 THE COURT: Excuse me. Excuse me.

8 She mentions that -- She limits -- On Page 36,
9 Paragraph 69 of the Presentence Report, she limits that
10 testimony to the crack sold, according to Mr. Robles.

11 THE DEFENDANT: Okay.

12 THE COURT: So her calculation is -- apparently
13 is -- is based on the amount of crack sold, not on the amount
14 of all the other drugs sold, as I understand the -- the
15 Presentence Report.

16 THE DEFENDANT: Okay. What I want to give you is an
17 example of the exaggeration that you can see so clearly that
18 exists in that testimony. And by that, I'm referring to my
19 experience as a drug agent. In those videos, which is the best
20 evidence that the Government can have, you don't even see 50
21 persons an hour go up there. How is it possible that two -- a
22 little over 200 people per hour go up there? That's just to
23 give you an example. If it were only the crack, it would be
24 1,200 divided into 24 hours, would be 15 persons.

25 THE COURT: I just did that. In one day.

1 THE DEFENDANT: In one day. And if that was clear,
2 then where are the other 4,000 persons who bought drugs in that
3 conspiracy?

4 THE COURT: All right. But, Mr. Rosario, you have to
5 remember that the calculation done for your case is based on
6 those 50 persons, not the other 4,500.

7 THE DEFENDANT: According to the evidence of the
8 videos, where are -- Because it's easy for me to come here and
9 say I sold a thousand -- correction -- 2,000 bottles of crack
10 in one shift, I sold 3,000 bags of heroin in one shift,
11 exaggerate the amounts, you know, that based on the experience
12 that I have, it was completely exaggerated, because the videos
13 are very clear.

14 THE COURT: But that -- Mr. Rosario, that's water
15 under the bridge. The jury has already decided that.

16 THE DEFENDANT: The jury was not able to determine the
17 amount that I was responsible for.

18 THE COURT: But -- but the testimony at trial
19 allows me to make a calculation. And to tell you the truth,
20 both -- my calculation is a conservative calculation.

21 THE DEFENDANT: Okay. Ms. Frances Alvarez also
22 testified about amounts sold there. She testified that in 2003
23 when they introduced crack at that drug point, she sold about a
24 thousand bottles --

25 THE COURT: That --

1 THE DEFENDANT: Every two or three days.

2 THE COURT: All right. That may be true, but the
3 calculation that was done by Ms. Valentin is solely for the
4 period that Mr. Robles sold, if you add what was -- what
5 Ms. Alvarez says, then that's going to be even more crack. So
6 that's what I'm saying, this calculation is pretty
7 conservative.

8 THE DEFENDANT: In relation to that --

9 THE COURT: Mr. Robles sold crack during 2007 and
10 2008, and that is -- that is the calculation that is being
11 done. We're not even considering the crack that was sold
12 before 2007. So if you -- you know, if we were to consider
13 that, we would have to add that to whatever amounts Mr. Robles
14 said that he sold, which would be even more crack.

15 THE DEFENDANT: I'm not following that line of
16 thought, though.

17 THE COURT: That's what I understood you to say.

18 THE DEFENDANT: Let me explain. I'll explain it.

19 This has a sequence, just like in the trial. In 2004,
20 she testified that another drug point in Trocha in Vega Baja
21 introduced crack at their drug point, and that the drug sales
22 at the drug point diminished.

23 THE COURT: But that's 2004. We're not even
24 considering 2004, Mr. Rosario.

25 THE DEFENDANT: Okay. Now I'm going to talk about

1 2007. When she arrived in 2006, 2007, she testified that
2 things had changed. That her husband had another drug point.

3 THE COURT: Mr. Rosario -- Mr. Rosario, we're not even
4 considering Ms. Alvarez' testimony, because if we did, we would
5 just have to add more crack. We're taking a conservative look
6 at the amount of crack sold during a period -- a period of just
7 one year.

8 THE DEFENDANT: One final detail about that, please.

9 When she testified that she bought the amount with her
10 husband in 2000- -- still talking about 2007, her husband was
11 alive.

12 THE COURT: Until May of 2007.

13 THE DEFENDANT: And she testified that two-eighths
14 would be bought for two drug points, one in the La Playa area,
15 beach area, and the other in Altos de Cuba. However, she said
16 that one drug point bought material to divide it between crack
17 and cocaine, and the other would be for the -- for El Altos.
18 What had to be divided would be less than 60 grams, which is
19 what her husband sold at El Altos, a week. And the difference
20 that the lady testified about that her husband sold, there's a
21 big difference between then and what the other man testified.

22 The other point would be about the points as a leader.
23 Discuss that issue? They want to attribute four points as a
24 leader to me, and according to what the witnesses testified,
25 the one who had the control of the crack and marijuana drug

1 point was Defendant Luis Sostre-Miranda, who received a monthly
2 sum for the drug points in that ward. And according to his
3 agreement with the Government, he -- the eight, nine, ten years
4 of the conspiracy, no witness ever said that that man got out.
5 But then he received a monthly amount based on the earnings
6 made in that drug point -- in those drug points. The witnesses
7 even say that when the drug point was rented, things remain the
8 same. That the one who assigned the shifts was the runner, who
9 was Rolando, and his brother Manny -- Manny's runner. They're
10 not talking about the fact that this person -- this man sold
11 his rights as some other persons are alleging. That he does
12 with those rights whatever he pleases. That's the most I can
13 explain regarding what was testified about here.

14 And I want to thank you for being so patient with me,
15 because I know it hasn't been easy. But my situation, you
16 know, you have to understand it a little bit. And I want to
17 thank my family for having supported me in this situation at
18 all times. And then ask very respectfully of this Honorable
19 Court that it consider at the moment of imposing my sentence
20 that according to what was testified by the witnesses, my
21 participation was minimum. And thank you for listening to me,
22 your Honor.

23 MR. DOLZ-SANCHEZ: Briefly, your Honor.

24 THE COURT: Mr. Dolz.

25 MR. DOLZ-SANCHEZ: Yes. Even though how despicable

1 the actions might have been of this group of Defendants and the
2 -- the acts of -- alleged against this Defendant, there's
3 evidence in the Presentence Investigation Report that this
4 person was a useful citizen at a point in time.

5 THE COURT: Was what?

6 MR. DOLZ-SANCHEZ: A useful citizen. He was a police
7 officer for a number of years, he was an undercover agent for a
8 number of years, he made a number of arrests over those years,
9 and there's years he went to school, he finished a college
10 degree. So in my estimation, your Honor, it's like the -- like
11 the butterfly that flew too close to the flame and got burned.
12 I think that this person can be rehabilitated because he was
13 a -- a good person at one point in time. And seriously
14 speaking, your Honor, I don't think a term of imprisonment of
15 life, like the Government is asking, would serve the services
16 of the community, of the justice system, and with that, your
17 Honor, I move for a variance, because I don't think this person
18 deserves a term of life imprisonment. I think he can serve
19 time and come back to the community and be useful again because
20 he was for a number of years, your Honor.

21 THE COURT: Thank you.

22 Mr. Meeks, anything?

23 MR. MEEKS: Your Honor, I wanted to add a few points.
24 One thing I wanted to highlight that I forgot before is that
25 the Sentencing Memorandum filed by the United States uses what

1 is the most current version of the United States Sentencing
2 Guidelines and the table therein, which reflects a Level 38
3 for 4.5 kilograms of cocaine base or more. Just so that the
4 Court is aware -- Well, I'm sure the Court is aware. But to
5 kind of give some guidance.

6 At the beginning of this month, President Obama signed
7 the Fair Sentencing Act of 2010 and that changed the ratio
8 between cocaine sentencing and crack cocaine sentencing. To
9 date, that has not been made retroactive, so it's not
10 applicable to this Defendant's sentence. Based on the
11 Sentencing Memorandum filed by the United States, however, the
12 reasonable estimate of the crack cocaine attributable to this
13 Defendant is 59.31 kilograms of crack cocaine. And the
14 Sentencing Guidelines, as they are currently, top out at 4.5
15 kilograms. When they are changed, they will top at 8.4
16 kilograms. So even if the new law were attributable to this
17 Defendant, it would not give him any greater effect.

18 I do want to address Attorney Dolz' request for a
19 departure from the Guidelines, because the United States'
20 position is that no departure is warranted. Specifically, the
21 United States would highlight the fact that although Mr. Dolz
22 and the Defendant may try to minimize his role -- and I think
23 the Defendant said specifically that the testimony of the
24 witnesses was that his participation was minimum. I think,
25 actually, the testimony was to the contrary. Not only was

1 there testimony from Ms. Frances Alvarez that the Defendant was
2 the supplier of cocaine quantities so that crack could be made
3 before he became the crack cocaine and marijuana owner of the
4 drug point -- of the crack cocaine and marijuana drug points in
5 Altos de Cuba, it was also testified that the Defendant was a
6 frequent figure in the drug point and would have meetings with
7 other leaders and owners.

8 Specifically, I'm referring to the time that there was
9 an altercation between Omar Lexus and Pepon. The Defendant was
10 there and was on the scene to accompany Omar Lexus to a meeting
11 with Pepon. So this is not minimum participation.

12 Additionally, there was testimony that this Defendant
13 used the threat of deadly force to intimidate and interrogate
14 a drug user and subordinate of another drug point owner when
15 he believed that an individual named Moises had provided
16 information to the police. There was testimony, I believe,
17 from two different Government's witnesses that he confronted
18 Moises and held him at gunpoint and questioned him as to
19 whether he had been providing such information.

20 And while Mr. Dolz highlights the Defendant's previous
21 law enforcement experience as a life or years better lived in
22 the past, that is a reason from the Government's standpoint to
23 highlight that this Defendant is very well deserving of the
24 life sentence of imprisonment because you have an individual
25 who protected the public trust, and instead of continuing to

1 follow along that path -- and even though he worked undercover
2 in these sorts of environments and in an attempt to help law
3 enforcement -- he then decided that that was the better life
4 and crossed over to the other side of the tracks.

5 So for all of those reasons and everything cited in
6 the United State's Sentencing Memorandum, this Defendant is
7 also deserving of life imprisonment.

8 THE COURT: Mr. Dolz or Mr. Rosario, anything else?

9 MR. DOLZ-SANCHEZ: I can't find the exact page,
10 but there was an incident -- there's an incident in the
11 Presentencing Report which states that as precisely because
12 of -- as a consequence of being a police officer, this person
13 apparently saw one of his companions shot himself, and he had
14 to be sent to the State Insurance Fund, and that he suffered
15 mentally; he was separated from the Police of Puerto Rico
16 because of that condition.

17 What Meeks says is correct. But I'm saying that there
18 is some rehabilitative value in this person. That a term of
19 life imprisonment is not going to serve any purpose at all.
20 That's why I'm asking for a variance, your Honor.

21 THE COURT: All right.

22 On April 20, 2010, Defendant Wilfredo Rosario-Camacho
23 was found guilty as to Counts 1 through 6 of the Indictment in
24 Criminal Case Number 08-310. Counts 1 through 5 charge a
25 violation of Title 21, United States Code, Sections 841(a)(1),

1 846, and 860. Count 6 charges a violation of Title 18, United
2 States Code, Sections 924(c)(1)(A) and 924(o). All Class A
3 felonies.

4 The 2009 Edition of the Sentencing Guidelines were
5 applied in this case pursuant to Sentencing Guideline Section
6 1B1.11(a). Pursuant to Sentencing Guideline Section 3D1.2(d),
7 rules relative to grouping of closely related counts, Counts 1
8 through 5 were grouped together because the offense level is
9 determined largely on the amount of controlled substances
10 involved.

11 Count 6 was grouped together with Counts 1 through 5
12 under the provisions of Sentencing Guidelines Section 3D1.2(c)
13 because that count embodies conduct that is treated as a
14 specific offense characteristic in, or other adjustment to, the
15 guideline applicable to Counts 1 through 5.

16 Based on the provisions of the Sentencing Guideline
17 Section 2D1.1, a Base Offense Level of 38 has been determined
18 because the offense involved more than 4.5 kilograms of cocaine
19 base; specifically, more than 50 kilograms of cocaine base.
20 Because the offense took place within 1,000 feet of a protected
21 location, a two-level increase is warranted pursuant to
22 Sentencing Guideline Section 2D1.2(a)(1), establishing a Base
23 Offense Level of 40. Because Mr. Rosario had knowledge that
24 members of the conspiracy would carry firearms and it was
25 reasonably foreseeable that dangerous weapons would be used and

1 possessed in the conspiracy, a two-level increase is applied
2 pursuant to Sentencing Guideline Section 2D1.1(b)(1). Indeed,
3 that was the testimony at trial -- There was testimony at trial
4 that Mr. Rosario's altercation with a person called Moises,
5 Mr. Rosario accused Moises of being a police informant while
6 pointing a weapon at him. As evidenced during the trial,
7 Mr. Rosario was the owner of the crack cocaine and marijuana
8 drug points since 2007 and employed runners and sellers in
9 order to maintain those drug points operated 24 hours a day,
10 seven days a week, so a four-level increase is applied pursuant
11 to Sentencing Guideline Section 3A1.1(a) [sic]. There are no
12 other applicable guideline adjustments. The Total Offense
13 Level is 46. Chapter 5 of the Sentencing Guideline
14 establishes, however, that a Base Offense Level of more than 46
15 is to be treated as an Offense Level of 43.

16 I'm sorry. Offense Level more than 43 is to be
17 treated as an Offense Level of 43. Therefore, based on a Total
18 Offense Level of 43 and a Criminal History Category of I, the
19 guideline imprisonment range in this particular offense is
20 imprisonment for life; with a fine range of 25,000 to eight
21 million dollars; plus a supervised release term of at least ten
22 years as to Counts 1 through 5, and at least two but not more
23 three years as to Count 6.

24 Mr. Rosario is a 30-year old former police officer who
25 resigned from the force and became one of the leaders of a

1 dangerous Drug Trafficking Organization in Altos de Cuba. He
2 was raised in a healthy and affluent environment, attended
3 college, and was given every opportunity to lead a law abiding
4 and productive life but decided not to do so.

5 To impose sentence, the Court has considered the
6 nature and circumstances of the offense and Mr. Rosario's
7 history and characteristics. In order to reflect the
8 seriousness of the offense, to promote respect for the law, and
9 provide just punishment of the offense, it's the judgment of
10 the Court that Wilfredo Rosario-Camacho is hereby committed to
11 the custody of the Bureau of Prisons to be imprisoned for the
12 remainder of his natural life as to Counts 1 through 5, and 240
13 months as to Count 6, the terms to be served concurrently with
14 each other.

15 If ever released from confinement, Mr. Rosario shall
16 be placed on supervised release for a term of ten years as to
17 Counts 1 through 5 and three years as to Count 6, all to be
18 served concurrently with each other and under the following
19 terms and conditions:

20 He shall not commit another federal, state, or local
21 crime and shall observe the standard conditions of supervised
22 release recommended by the United States Sentencing Commission
23 and adopted by this Court;

24 He shall not unlawfully possess controlled substances;

25 He shall refrain from possessing firearms, destructive

1 devices, and other dangerous weapons;

2 He shall refrain from the unlawful use of controlled
3 substances and shall submit to a drug test within 15 days of
4 release from imprisonment. After his release, he shall submit
5 to random drug testing, no less than three samples during the
6 supervision period, but not to exceed 104 samples per year,
7 under the coordination of the probation officer. If any sample
8 detects substance abuse, Mr. Rosario shall participate in an
9 inpatient or an outpatient substance abuse treatment program
10 for evaluation or treatment as arranged by the probation
11 officer until duly discharged. Mr. Rosario is required to
12 contribute to the cost of services rendered by means of
13 co-payment in an amount arranged by the probation officer
14 based on his ability to pay or the availability of third-party
15 payment;

16 He shall provide the probation officer access to any
17 financial information upon request and shall produce evidence
18 to the probation officer to the effect that income and other
19 tax returns have been duly filed as required by law;

20 He shall submit his person, residence, office, or
21 vehicle to a search conducted by a United States Probation
22 Officer at a reasonable time and in a reasonable manner based
23 upon reasonable suspicion of contraband or of evidence of a
24 violation of a condition of release. Failure to submit to a
25 search may be grounds for revocation of release. Mr. Rosario

1 shall warn any other resident that the premises may be subject
2 to searches pursuant to this condition;

3 He shall cooperate in the collection of a DNA sample
4 as directed by the probation officer pursuant to the Revised
5 DNA Collection Requirements in Title 18, United States Code,
6 Section 3563(a)(9).

7 Having considered Mr. Rosario's financial condition,
8 the Court finds that he does not have ability to pay a fine so
9 a fine is not imposed. A special monetary assessment in the
10 amount of \$100 is imposed as to each count, however, for a
11 total of \$600 as required by law.

12 (The Courtroom Deputy Clerk speaks to the Judge off
13 the record.)

14 (The Probation Officer approaches the bench to speak
15 to the Judge off the record.)

16 (Respite.)

17 THE COURT: All right. Ms. Valentin has reminded me
18 that the four-level increase is applied pursuant to Sentencing
19 Guideline Section 3B1.1(a), not 3A1.1(a).

20 Mr. Rosario, you have a right to appeal because you
21 were found guilty after a plea of not guilty. A Notice of
22 Appeal must be filed in District Court within ten days from the
23 date when the judgment of the Court will be entered. You have
24 a right to appeal -- for leave to appeal *in forma pauperis* if
25 you are unable to pay the cost of an appeal.

1 Because you are represented by Court-appointed
2 counsel, he will continue to represent you through appeal, if
3 any, unless a substitute counsel is later appointed at your
4 request.

5 You will be given credit toward your sentence for any
6 days spent in federal custody in connection with the offenses
7 to which sentence has been imposed.

8 The Court directs that the transcript of the
9 sentencing proceedings be forwarded to the Sentencing
10 Commission, the United States Bureau of Prisons, and the
11 probation office within 30 days.

12 Anything else, Counsel?

13 MR. DOLZ-SANCHEZ: No, your Honor. Permission to
14 withdraw.

15 MR. MEEKS: None from the Government.

16 THE COURT: Okay.

17

18

19

20 (The hearing of this cause concluded at 12:25 p.m., on
21 August 18, 2010.)

22

23

24

25

UNITED STATES DISTRICT COURT)
) ss.
OF PUERTO RICO)

CERTIFIED AND SIGNED on this 24th day of January, 2011.

ROLAYNE M. VOLPE, CCR, RPR
COURT REPORTER FOR THE U.S. DISTRICT COURT OF PUERTO RICO
787-772-3482